


Amendment No. _____



Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1100

House Bill No. 189*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-11-138, is amended by adding the following new subsection (c):

If after the bond has been active and in effect for three (3) years and the state has failed to seek an original indictment before a grand jury against the defendant covered by the bond, the bond shall not be forfeited against the surety and shall not be included in the calculation of a professional bondsman's capacity, solvency, or otherwise negatively impact the surety involved.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

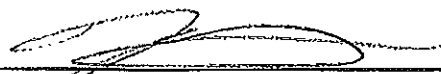


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Amendment No. _____



Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 274*

House Bill No. 1264

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-14-405, is amended by adding the following new subsection:

() For purposes of this section, there shall be no inference of the owner's consent nor shall the defense in subsection (b) be available to a person entering and remaining on the grounds, or in the common areas, such as lobbies, hallways, courtyards, and parking lots, of a housing or apartment complex having signs posted in compliance with subsection (c) unless the person:

(1) Has the actual consent of the owner;

(2) May lawfully enter the property by virtue of the person's occupational duties; or

(3) Has a contractual right to enter the property or is an invitee of someone with a contractual right to make invitations to enter the property.

SECTION 2. This act shall take effect on July 1, 2017, the public welfare requiring it.



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Amendment No. _____



Signature of Sponsor

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Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 134

House Bill No. 39*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-10-406, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) A law enforcement officer who has probable cause to believe that the operator of a motor vehicle is driving while under the influence of any intoxicant, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system, or combination thereof as prohibited by § 55-10-401, or committing the offense of vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218, may request that the operator of the vehicle submit to a breath test, blood test, or both tests for the purpose of determining the alcohol or drug content, or both, of that operator's blood;

(2) The circumstances under which a breath test may be administered are governed by subsection (a) through subdivision (d)(4), and subsections (j)-(n). The circumstances under which a blood test may be administered are governed by subsections (e)-(n).

(b) A breath test may be administered under the following circumstances:

(1) The operator's implied consent to submit to a breath test pursuant to subdivision (d)(1);



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- (2) The operator's express consent to submit to a breath test;
- (3) A search warrant issued in accordance with title 40, chapter 6, part 1, and Rule 41 of the Tennessee Rules of Criminal Procedure;
- (4) Incident to a lawful arrest for any of the offenses set out in subdivision (a)(1); or
- (5) When a breath test is required to be administered pursuant to subsection (c).

(c)

(1) A law enforcement officer shall administer a breath test for the purpose of determining the alcohol or drug content of the operator's blood if the officer has probable cause to believe that the operator of the motor vehicle:

(A) Has been involved in an accident resulting in the injury or death of another and the operator of the vehicle has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401;

(B) Has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401; and a passenger in the motor vehicle is a child under sixteen (16) years of age; or

(C) Has committed a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401 and has a prior conviction of a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401.

(2) The breath test shall be performed in accordance with the procedure set forth in this section and § 55-10-408, and shall be performed, when required by subdivision (c)(1), or pursuant to a search warrant described in subdivision (b)(3), regardless of whether the operator consents to the test.

(3) The results of a breath test that is required to be performed by subdivision (c)(1) may be offered as evidence by either the state or the operator of the vehicle in any court or administrative hearing or official proceeding relating to the accident or offense, subject to the Tennessee Rules of Evidence.

(d)

(1) The operator of a motor vehicle in this state is deemed to have given implied consent to a breath test for the purpose of determining the alcohol content of that operator's blood, a breath test for the purpose of determining the drug content of the operator's blood, or both tests. However, no such breath test may be administered pursuant to this section unless conducted at the direction of a law enforcement officer having probable cause to believe the operator was in violation of one (1) of the offenses set out in subsection (a).

(2) Any law enforcement officer who requests that the operator of a motor vehicle submit to a breath test authorized pursuant to subdivision (a)(1), shall, prior to conducting the test, advise the operator that refusal to submit to the breath test:

(A) Will result in the suspension by the court of the operator's driver license; and

(B) May result, depending on the operator's prior criminal history, in the operator being required to operate only a motor vehicle equipped with a functioning ignition interlock device, if the operator is convicted of a violation of § 55-10-401.

(3) If the operator is not advised of the consequences of the refusal to submit to a breath test, the court having jurisdiction over the offense for which the operator was placed under arrest shall not have the authority to suspend the license of an operator or require the operator to operate only a motor vehicle equipped with a functioning ignition interlock device pursuant to § 55-10-417.

(4) Except as may be required by a search warrant or other court order, if the operator is placed under arrest, requested by a law enforcement officer to submit to a breath test, advised of the consequences for refusing to do so, and refuses to submit, the test to which the operator refused shall not be given, and the operator shall be charged with violating subdivision (d)(1). The determination as to whether an operator violated subdivision (d)(1) shall be made:

(A) At the same time and by the same court as the court disposing of the offense for which the operator was placed under arrest, upon motion of the state;

(B) At the operator's first appearance or preliminary hearing in the general sessions court, but no later than the case being bound over to the grand jury, if the state does not make a motion pursuant to subdivision (d)(4)(A); or

(C) By the court which determines whether the operator committed the offense, if the refusal is for a misdemeanor offense.

(e) Upon a finding of probable cause for an offense specified in subsection (a), a law enforcement officer may administer a blood test for the purpose of determining the alcohol or drug content, or both, of that operator's blood only:

(1) With the consent of the operator of the vehicle and after executing the waiver set out in subsection (g);

(2) With a search warrant issued in accordance with title 40, chapter 6, part 1, and Rule 41 of the Tennessee Rules of Criminal Procedure; or

(3) Without the consent of the operator of the vehicle if, on a case by case basis, one (1) or more of the recognized exigent circumstances to the search warrant requirements exist.

(f) The implied consent given by the operator of a motor vehicle pursuant to subdivision (d)(1), is not sufficient to comply with the consent required to administer a

blood test pursuant to this section. Unless the operator voluntarily signs the waiver form, a properly executed search warrant or a recognized exigent circumstance is required to obtain blood from the operator.

(g) If the operator of a motor vehicle consents to the administration of a blood test to determine the alcohol or drug content of the operator's blood in the absence of a search warrant authorizing a blood test or a recognized exigent circumstance, the operator shall sign a standardized waiver developed by the department of safety and made available to law enforcement agencies that have the authority to make arrests for the offenses specified in subsection (a). If the operator cannot read the waiver for any reason, the officer shall read the waiver to the operator. If the waiver is read to the operator, no presumption of the operator's impairment or intoxication is created and no presumption is created that the operator understood the meaning or consequences of the form the operator signed. It is not admissible in court against the operator that the waiver was read to the operator and the operator shall have the opportunity in court to present evidence that the operator did not understand the meaning or consequences of signing the form. The operator shall sign and date the waiver and the law enforcement officer shall initial the waiver.

(h)

(1)

(A) If a blood test of the operator of a motor vehicle is authorized pursuant to this section, a qualified practitioner who, acting at the written request of a law enforcement officer, withdraws blood from an operator for the purpose of conducting a test to determine the alcohol or drug content in an operator's blood, shall not incur any civil or criminal liability as a result of the withdrawing of the blood, except for any damages that may result from the negligence of the person so withdrawing.

(B) Neither the hospital nor other employer of a qualified practitioner listed in subdivision (h)(2) shall incur any civil or criminal liability as a result of the act of withdrawing blood from any operator, except in the case of negligence.

(2) For purposes of this section, a "qualified practitioner" is a:

(A) Physician;

(B) Registered nurse;

(C) Licensed practical nurse;

(D) Clinical laboratory technician;

(E) Licensed paramedic;

(F) Licensed emergency medical technician approved to establish intravenous catheters;

(G) Technologist; or

(H) A trained phlebotomist who is operating under a hospital protocol, has completed phlebotomy training through an educational entity providing such training, or has been properly trained by a current or former employer to draw blood.

(I) Any operator who is unconscious as a result of an accident or is unconscious at the time of arrest or apprehension or otherwise in a condition rendering the operator incapable of refusal, shall not be subjected to a blood test unless law enforcement has obtained a warrant or one (1) or more of the recognized exigent circumstance exceptions to a search warrant apply.

(J) Provided probable cause exists for criminal prosecution for any of the offenses specified in subsection (a), nothing in this section shall affect the admissibility into evidence in a criminal prosecution of any chemical analysis of the alcohol or drug content of the defendant's blood that was not compelled by law enforcement but was

obtained while the defendant was hospitalized or otherwise receiving medical care in the ordinary course of medical treatment.

(k) Nothing in this section shall affect the admissibility in evidence, in criminal prosecutions for aggravated assault or homicide by the use of a motor vehicle only, of any chemical analysis of the alcohol or drug content of the defendant's blood that has been obtained in accordance with this section and tested according to § 55-10-408.

(l) The results of a blood test or breath test authorized and conducted in accordance with this section and § 55-10-408:

(1) Shall be reported in writing by the person making the test, shall have noted on the report the time at which the sample analyzed was obtained from the operator, and shall be made available to the operator, upon request; and

(2) Shall be admissible in evidence at the trial of any person charged with an offense specified in subsection (a).

(m) The fact that a law enforcement officer failed to request that the operator charged with an offense specified in subsection (a) submit to a blood or breath test is admissible as evidence at the trial of the charged offense.

(n)

(1) It is an offense for the operator of a motor vehicle to intentionally refuse, prevent, or obstruct the administration of a breath test or blood test to determine the alcohol or drug content of the operator's blood if:

(A)

(i) The operator is required to submit to a breath test under subsection (c) or subdivision (b)(3);

(ii) The operator is required to submit to a blood test under subdivision (e)(2) or (e)(3); or

(iii) The operator is required to submit to both a breath test and a blood test under subsection (c) or subdivision (b)(3), (e)(2), or (e)(3); and

(B) The test or tests are administered in accordance with § 55-10-408.

(2) A violation of this subsection (n) is a Class A misdemeanor.

SECTION 2. Tennessee Code Annotated, Section 55-10-407, is amended by deleting subsection (b) and substituting instead the following:

(b) If the court or jury finds that the operator refuses to submit to a blood or breath test as required by § 55-10-406(b)(3), (c), (e)(2), or (e)(3), while driving on a license that was revoked, suspended, or cancelled due to a prior conviction as defined in § 55-10-405, the driver commits a Class A misdemeanor and shall be fined not more than one thousand dollars (\$1,000), and shall be sentenced to a minimum mandatory jail or workhouse sentence of five (5) days, which shall be served consecutively, day for day, and which sentence cannot be suspended.

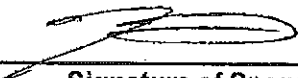
SECTION 3. Tennessee Code Annotated, Section 55-10-407, is further amended by deleting from subdivision (e) the language "§ 55-10-406(d)(1)" and substituting instead the language "§ 55-10-406(d)(4)".

SECTION 4. Tennessee Code Annotated, Section 55-10-408, is amended by deleting from subsection (a) the language "§ 55-10-406(b)(1)" and substituting instead the language "§ 55-10-406(h)(2)".

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.

House Criminal Justice Subcommittee Am. #1

Amendment No. _____



Signature of Sponsor

FILED	
Date	_____
Time	_____
Clerk	_____
Comm. Amdt.	_____

AMEND Senate Bill No. 1253

House Bill No. 636*

by deleting the word "petitioner" in SECTION 6(7) and substituting instead the word "movant".



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Amendment No. _____

Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 724

House Bill No. 763*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, is amended by adding the following as a new chapter:

40-40-101.

As used in this part:

(1) "DUI monitoring fund" means the fund created by § 55-10-419 that is available for financial assistance when a person is determined by the court to be unable to pay for their monitoring program fees but is required by court order to enroll in the monitoring program;

(2) "Electronic monitoring" means any device that tracks a person through satellite and communicates that information through cellular towers, giving the device's location and status, including battery percentage, device tampering, zone compliance or noncompliance, or a device that uses radio frequency (RF) to determine if a person is in a specific location such as house arrest by landline or ethernet, which is not GPS related;

(3) "Monitoring program" means a program whereby a person who has been charged with or convicted of a criminal offense is released from custody on bail, pre-trial diversion, judicial diversion, probation, or parole, and one (1) of the conditions of release is that the person participates in a program whereby the person's alcohol use, drug use, or



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geographic location are monitored by a public monitoring entity or a private monitoring entity either electronically or physically through required in-person checks, testing, screening, global positioning system devices, transdermal monitoring devices, and other electronic devices;

(4) "Other alcohol monitoring device" means any device that monitors a person's alcohol level, including, but not limited to, random breath testing or urine testing;

(5) "Private monitoring company":

(A) Means any private entity, whose business, in whole or in part, consists of contracting with a public entity for the purpose of monitoring persons who a court, magistrate, or board has ordered, as a condition of release, to participate in a monitoring program, and includes any private company that holds a direct contract with a manufacturer of transdermal monitoring, electronic monitoring, or other alcohol monitoring devices; and

(B) Does not include an Ignition Interlock provider as defined in § 55-10-411(h)(3);

(6) "Public monitoring entity" means a department or other entity of state or local government that has a duty, in whole or in part, to supervise persons who have been charged with or convicted of a criminal offense and that may conduct a monitoring program or contract with a private monitoring company to conduct a monitoring program for persons under the entity's supervision; and

(7) "Transdermal monitoring" means any device or instrument that is attached to the person, designed to automatically test the alcohol or drug content in a person by contact with the person's skin at least once per quarter hour regardless of the person's location, and which detects

the presence of alcohol or drugs and tampering, obstructing, or removing the device.

40-40-102.

This part shall apply to:

(1) Any person who has been ordered by a court to participate in a monitoring program as a condition of bail, probation, parole, pre-trial diversion, judicial diversion, or any other form of release. A voluntary agreement between a person and a private entity to enter a monitoring program is not subject to this part;

(2) A certified private monitoring company; and

(3) A public monitoring entity.

40-40-103.

(a) To be a certified private monitoring company and do business in this state, the company must register with and be certified by the department of commerce and insurance. A company seeking to be certified shall send the department documentation suitable to the commissioner of all of the following:

(1) The owner of the company is a Tennessee resident, the company is incorporated in this state, or the company has appointed an agent in this state who is authorized to accept service of process for the company;

(2) A Tennessee bureau of investigation and a federal bureau of investigation criminal history background check showing that no owner, operator, or employee of the company has been convicted of an offense classified as a felony in this state or any other state;

(3) Proof that the company has obtained a performance bond in an amount of no less than one hundred thousand dollars (\$100,000), or

that the company has an umbrella policy of insurance that covers the company's performance for the stated amount;

(4) Proof that the company carries a comprehensive liability insurance policy in an amount of not less than one million dollars (\$1,000,000), or that the company has an umbrella policy of insurance that covers the company's liability for the stated amount;

(5) A nonrefundable annual certification fee of two hundred fifty dollars (\$250) in the form of a certified check; and

(6) A one-time nonrefundable administration fee of one thousand dollars (\$1,000) in the form of a certified check.

(b) To conduct an electronic monitoring program in this state, all public monitoring entities and private monitoring companies shall have, at a minimum, an electronic monitoring device that:

(1) Has batteries capable of three hundred sixty-five (365) cycles of charging and discharging. The electronic monitoring device must complete the charge process one hundred percent (100%) from a discharged state within a two-hour period and last for a minimum of twenty-four (24) hours on a two-hour charge;

(2) Has a strap that generates a time-stamp tamper event within five (5) seconds of being cut and provide an alert to the private monitoring company or public monitoring entity within five (5) minutes of the time stamp;

(3) Generates a zone alert within four (4) minutes of crossing the boundary of an exclusion zone, an area in which the offender is prohibited to be, or an inclusion zone, an area where an offender is to remain for a scheduled period of time such as house arrest;

(4) Demonstrates detection and alerting for loss of location incidents within two (2) hours;

(5) Demonstrates detection and alerting for incidents in which communication, including cellular communication, has been lost for a period of at least two (2) hours and generates an alert accordingly;

(6) Has an adjustable data collection rate that ranges from at least one (1) location point per minute to one (1) location point every fifteen (15) minutes. The device may not have a rate plan that exceeds fifteen (15) minutes per point;

(7) Uploads data points at a minimum of ten (10) minutes, but not to exceed fifteen (15) minutes;

(8) Provides a location that is accurate:

(A) Within ten (10) meters, ninety percent (90%) of the time in an open air environment with no obstructions; and

(B) Within thirty (30) meters, ninety percent (90%) of the time when placed in an eight-foot by eight-foot single story structure; and

(9) Has software capable of determining if drift points occur and able to show accuracy of each point. "Drift points" means when the earth rotates as well as satellites, and a location point may be placed far away at one (1) point and then back to normal on the next point.

(c)

(1) If the commissioner determines that a private monitoring company meets all of the requirements of subsection (a) and has equipment capable of operating as required in subsection (b), the commissioner shall certify the private monitoring company and add it to the list of certified private monitoring companies.

(2) By September 1, 2017, and every September 1 thereafter, the commissioner shall send by electronic means a list of approved private monitoring companies to the board of probation and parole and the presiding judge of each judicial district. Magistrates and other officials who set bail shall acquire a list of certified private monitoring companies from the presiding judge of the district in which the magistrate or other official is employed. If a company is certified after September 1 of a year, the commissioner shall have thirty (30) days to distribute an updated list to the board of probation and parole and presiding judges.

40-40-104.

(a) Each private monitoring company or public monitoring entity that conducts a monitoring program containing participants who are required to wear an electronic monitoring device shall send a report via email or in person, if there is confirmed information that a participant has committed a violation by cutting the strap of the electronic monitoring device, to the court, board, or magistrate having jurisdiction over the participant and the participant's bonding company, if applicable. If the participant is charged with or convicted of an offense for which there is a victim, such as a sexual offense, stalking, or domestic assault, the company or entity shall make all reasonable efforts to also notify the victim or victims. If a victim wishes to be notified of any cut strap violation by the alleged perpetrator of the offense, the victim has a duty to furnish current contact information to the private monitoring company or public monitoring entity so that the company or entity is able to contact the victim, if necessary. The report of violation required by this subsection (a) shall give the status of the person being monitored and shall include the person's record of compliance or noncompliance with the monitoring program.

(b) Each private monitoring company or public monitoring entity shall be required to send the court, board, or magistrate having jurisdiction over the participant a status letter, for each appearance within twenty-four (24) hours of appearance, which shall contain compliance or noncompliance reports for alcohol consumption, drug consumption, zone violations, tampering, and any other restrictions imposed by the court, board, or magistrate. The status letter shall also contain global positioning location documents with time stamps provided to show zone violations.

(c) All violations of a transdermal or electronic monitoring device or a violation of a condition imposed upon the participant's release to a monitoring program shall be reported to the court, board, or magistrate ordering a monitoring program within twenty-four (24) hours or the following business day of the confirmed violation.

40-40-105. Any pretrial release or diversion agent, bonding company, probation officer, or parole officer who wishes to have direct access through a web portal is required to be trained by an agent of a private monitoring company.

40-40-106. Any person ordered to participate in a monitoring program and wear a transdermal or electronic monitoring device shall follow the guidelines for release established by the court, magistrate, or board ordering the monitoring program. Each judicial district shall establish a protocol for a participant's release into a monitoring program, but if release requires the participant to wear an electronic monitoring device, a maximum time of twenty-four (24) hours shall be allowed for installation of the device to occur.

40-40-107. Any monitoring program participant ordered to wear a transdermal or electronic monitoring device may choose a public monitoring entity, if available, or any certified private monitoring company, to install and monitor the transdermal or electronic

monitoring device. However, if the jurisdiction is under contract with a specific vendor or agency, the program participant shall use that vendor or agency.

40-40-108. All monitoring fees paid to a private monitoring company or a public monitoring entity shall be paid for by the participant in the amount set forth by the monitoring programs participation agreement, unless the participant is deemed indigent pursuant to § 55-10-419. Notwithstanding § 55-10-419(a)(1)(A), if the participant is determined by the court, board, or magistrate to be indigent, the DUI monitoring fund established in § 55-10-419 shall assist by paying up to two hundred dollars (\$200) per person, per device and will assist the person throughout the duration of the person's participation in the monitoring program. In order for the monitoring company to receive reimbursement, an order from the court, board, or magistrate and the affidavit of indigency filled out by the court, board, or magistrate must be submitted to the monitoring company. The order shall contain the indigent participant's name; date of birth; case number; length of time the person is to be enrolled; how much the state is required to pay, not to exceed two hundred dollars (\$200); and how much the participant is required to pay. The participant's failure to pay fees associated with the monitoring program shall be considered a direct violation of the monitoring program ordered by the court, magistrate, or board. Delinquent status will occur if the participant reaches fourteen (14) days of non-payment. If a private monitoring company files a violation of delinquency with the court, board, or magistrate, and the court, board, or magistrate requires the monitoring company to keep the participant enrolled in the program, the court shall enroll the offender into the DUI monitoring fund pursuant to § 55-10-419.

40-40-109. The knowing failure of a private monitoring company or public monitoring entity to send the notifications required by this part, such as status letters, timely violation reports, or other requested reports, shall be grounds for the court, board, or magistrate to discipline the private monitoring company or public monitoring entity. Prior to imposing any discipline, the court, board, or magistrate shall conduct a hearing

to determine if the violation occurred, and, if so, the degree and severity of the violation. The private monitoring company or public monitoring entity shall have the right to attend the hearing, offer evidence that there was no violation, or offer evidence in mitigation of the violation. If the court, board, or magistrate finds that there was a violation, the range of sanctions that may be imposed is within the discretion of the court, board, or magistrate, but shall be based on and limited by the standards, local policies, and procedures in effect at the time and in the location where the violation occurred.

40-40-110. For each participant that is enrolled in a transdermal or electronic monitoring program, the private monitoring company or public entity shall pay to the state a fifteen-dollar one-time tax. Those funds shall be allocated by ten dollars (\$10.00) being deposited into the state general fund and five dollars (\$5.00) into the DUI monitoring fund created by § 55-10-419.

SECTION 2. Tennessee Code Annotated, Section 40-11-118(d)(2), is amended by adding the following new subdivision:

() The use of a global positioning system (GPS) device for the duration of the time the defendant is on bail;

SECTION 3. Tennessee Code Annotated, Section 40-7-103, is amended by adding the following new subdivision to subsection (a):

() When a person has committed a violation of § 40-11-118(g)(1)(A) or § 40-11-118(g)(1)(B);

SECTION 4. Tennessee Code Annotated, Section 40-11-132, is amended by adding the following new subdivision:

() Violation of a transdermal, electronic, or other alcohol monitoring program requirement.

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.

Amendment No. _____


Signature of Sponsor

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

AMEND Senate Bill No. 724

House Bill No. 763*

by deleting from subdivision (7) of Section 40-40-101 of the amendatory language of Section 1 the language "once per quarter hour" and substituting instead the language "once per half hour".

AND FURTHER AMEND by deleting the following language from Section 40-40-108 of the amendatory language of Section 1:

The participant's failure to pay fees associated with the monitoring program shall be considered a direct violation of the monitoring program ordered by the court, magistrate, or board. Delinquent status will occur if the participant reaches fourteen (14) days of non-payment. If a private monitoring company files a violation of delinquency with the court, board, or magistrate, and the court, board, or magistrate requires the monitoring company to keep the participant enrolled in the program, the court shall enroll the offender into the DUI monitoring fund pursuant to § 55-10-419.

and by substituting instead the following:

The timely payment of fees associated with the monitoring program shall be considered a condition of every monitoring program ordered by the court, board, or magistrate. A participant shall be considered delinquent after fourteen (14) consecutive days of non-payment of any monitoring fees for which the participant is responsible. If a private monitoring company files a petition for a violation based upon delinquency with the court, board, or magistrate, the court, board, or magistrate shall hear the petition at the earliest time available, but not more than fourteen (14) days from the date of filing. At the hearing, the participant may show that there has been a material change in the participant's financial status. If the court, board, or magistrate finds the participant's



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change in financial status is true and renders the participant indigent, the court, board, or magistrate may keep the participant enrolled in the monitoring program and order payment to come from the DUI monitoring fund pursuant to § 55-10-419. If the court, board, or magistrate finds that the participant's claim for a material change in financial status has not occurred or the change does not render the participant indigent, the participant has violated the terms of the participant's release and the court, board, or magistrate may take any authorized action, including the court revoking the participant's probation, the board revoking the participant's parole, or the magistrate revoking the participant's bail.